

MARY ANN SMITH
Deputy Commissioner
SEAN M. ROONEY
Assistant Chief Counsel
MARLOU de LUNA (State Bar No. 162259)
Senior Counsel
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344
Telephone: (213) 576-7606
Facsimile: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of THE COMMISSIONER OF BUSINESS OVERSIGHT,)	CDDTL No.: 100-0201, 100-0202, 100-0203
)	
Complainant,)	
v.)	CITATION AND DESIST AND REFRAIN ORDER
)	
SUN CASH OF SD, LLC dba SUN CASH,)	(FINANCIAL CODE SECTION 23058)
)	
Respondent.)	
)	
)	
)	
)	

1 Jan Lynn Owen, the Commissioner of Business Oversight (“Commissioner”) is informed and
2 believes, and based on such information and belief, finds as follows:

3 **I**

4 **Background**

5 1. The Commissioner, as head of the Department of Business Oversight (“Department”),
6 is authorized to administer and enforce the provisions of the California Deferred Deposit Transaction
7 Law (“CDDTL”) (Fin. Code, § 23000 et seq.) and the rules and regulations promulgated thereunder.

8 2. “Deferred deposit transaction,” as defined by section 23001, subdivision (a), of the
9 Financial Code, means a transaction whereby a person defers depositing a “customer’s personal
10 check” until a specific date, pursuant to a written agreement for a fee or other charge. A “personal
11 check” includes the electronic equivalent of a personal check, such as an Automated Clearing House
12 (“ACH”) or debit card transaction.

13 3. Respondent Sun Cash of SD, LLC doing business as Sun Cash (“Sun Cash”) is a
14 deferred deposit originator licensed by the Commissioner on December 31, 2004. Sun Cash is
15 licensed as a limited liability company with its principal place of business at 730 H Street, #2, Chula
16 Vista, CA 91910. Sun Cash has two additional licensed business locations at 2720 E. Plaza Blvd.,
17 Suite L, National City, CA 91950 and 5419 El Cajon Blvd., Suite 200, San Diego, CA 92115.

18 4. Paul Vorel (“Vorel”), at all relevant times, served as the chief financial officer of Sun
19 Cash.

20 **II**

21 **Violations of the California Deferred Deposit Transaction Law**

22 5. On August 17, 2015, the Commissioner commenced a regulatory examination of Sun
23 Cash at the San Diego location. Prior to the examination, the Commissioner’s examiner requested
24 that Sun Cash complete the Summary of Personnel form which is used to identify all individuals who
25 are officers, directors, or direct or indirect owners of 10% or more of the company. During the
26 examination, Sun Cash provided the completed Summary of Personnel form and supporting
27 documentation which included a chart showing the ownership structure of the company. The
28

1 Commissioner's examiner determined that three of the five individuals listed on the Summary of
2 Personnel – Michael Robbins, Scott Robbins and Randy Roche, did not have their fingerprints on file
3 with the Department. In response to the Commissioner's inquiry, Sun Cash indicated that Michael
4 Robbins and Scott Robbins who were listed as "GM" and "COO," respectively, were not officers,
5 directors, or owners of 10% or more of the company, therefore, they were not required to submit
6 fingerprints. Sun Cash also stated that fingerprints for Randy Roche, a 35% shareholder of Sun Cash,
7 were submitted along with the original application.

8 6. On April 14, 2016, the Commissioner sent an email to Vorel requesting that Sun Cash
9 provide an explanation of the roles and responsibilities of Michael Robbins and Scott Robbins. In
10 addition, the Commissioner also informed Vorel that it did not have any fingerprint records on file for
11 Randy Roche. The Commissioner requested that Sun Cash provide evidence that the required
12 fingerprint documents and applicable processing fees have been submitted to the Department. In
13 response, Vorel stated that Sun Cash would submit the required fingerprint information to the
14 Department for all three individuals. With respect to the roles and responsibilities of Michael Robbins
15 and Scott Robbins, Vorel indicated that that both Michael Robbins and Scott Robbins worked as store
16 managers and are responsible for the daily operations of the branches, they were not officers,
17 directors, or owners of 10% or more of the company. Accordingly, the Commissioner did not require
18 the fingerprints of Michael Robbins and Scott Robbins.

19 7. The Commissioner has made numerous requests to Sun Cash to submit the
20 fingerprints for Randy Roche or provide evidence that the required fingerprint documents and
21 applicable processing fees have been submitted to the Department, but to date nothing has been
22 provided. On May 6, 2016, in response to the Commissioner's email concerning the fingerprints for
23 Randy Roche, Vorel answered that he would submit the necessary documentation once he receives
24 the fingerprint cards from CDDTL Licensing Specialist Kenneth Wu ("Wu"). Wu confirmed Vorel
25 requested the fingerprint cards and those cards were mailed to Vorel, but the Department did not
26 receive any fingerprint documentation for Randy Roche. Other emails sent to Vorel concerning the
27 missing fingerprints for Randy Roche were sent on July 5, 2016, July 14, 2016, and September 30,
28

2016. Attempts to contact Vorel by phone were unsuccessful and the outgoing voicemail was unavailable to leave a message. The last attempt to contact Vorel by phone was on August 12, 2016.

8. Financial Code section 23008 authorizes the Commissioner to require Sun Cash to submit finger print documentation for Randy Roche, a 35% shareholder of Sun Cash. Section 23008 provides:

Upon the filing of an application pursuant to Section 23005 and the payment of fees pursuant to Section 23006, the commissioner shall investigate the applicant, and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests if the applicant is a partnership. If the applicant is a corporation, trust, or association, including an unincorporated organization, the commissioner shall investigate its officers, directors, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 23011, the commissioner shall issue and deliver a license to the applicant.

9. Financial Code section 23010 authorizes the Commissioner to require Sun Cash to file fingerprint documentation for Randy Roche, a 35% shareholder of Sun Cash. Section 25010 provides:

The commissioner may by regulation require licensees to file, at the times that the commissioner may specify, the information that the commissioner may reasonably require regarding any changes in the information provided in any application filed pursuant to this division.

10. The Commissioner has demanded that Sun Cash provide the required fingerprints for Randy Roche, a 35% shareholder of Sun Cash, or provide evidence that the required fingerprint documents and applicable processing fees have been submitted to the Department, but Sun Cash has failed to comply with the Commissioner's demand.

11. Financial Code section 23052, subdivision (a), provides that failure to comply with any demand, ruling, or requirement of the Commissioner constitutes grounds for suspension of a CDDTL license.

///

///

III

Citation

12. Financial Code section 23058 authorizes the Commissioner to issue a citation not exceeding \$2,500.00 for each violation of any provision of the CDDTL or any rule or order thereunder. Section 23058, subdivisions (a) through (d), provides:

(a) If, upon inspection, examination or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is engaged in the business of deferred deposit transactions without a license, or a licensee or person is violating any provision of this division or any rule or order thereunder, the department may issue a citation to that person in writing, describing with particularity the basis of the citation. Each citation may contain an order to desist and refrain and an assessment of an administrative penalty not to exceed two thousand five hundred dollars (\$2,500). All penalties collected under this section shall be deposited in the State Corporations Fund.

(b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If within 30 days from the receipt of the citation of the person cited fails to notify the department that the person intends to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with *Section 11500*) of *Part 1 of Division 3 of Title 2 of the Government Code*, and in all states the commissioner has all the powers granted therein.

13. For the CDDTL violation of Sun Cash cited herein, the Commissioner hereby issues one Citation (A):

Citation A - \$2,500.00: The regulatory examination commenced on August 17, 2015 disclosed that Sun Cash violated Financial Code sections 23008 and 23010 by failing to submit the fingerprints for Randy Roche, a 35% shareholder of Sun Cash. Numerous requests by emails beginning with an email on April 4, 2016 have been made to Vorel to submit the fingerprints of Randy Roche. Other attempts by emails were made on July 5, 2016, on July 14, 2016, September 30, 2016. Attempts to contact Vorel by phone were unsuccessful and the outgoing message was unavailable to leave a message. To date Sun Cash has failed to provide the required fingerprints for

1 Randy Roche or provide evidence that the required fingerprint documents and applicable processing
2 fees have been submitted to the Department.

3 14. Respondent Sun Cash is hereby ordered to pay the Commissioner an administrative
4 penalty of \$2,500.00 for Citation A within 30 days from the date this citation is deemed final under
5 Financial Code section 23058, subdivision (c). The penalty payment shall be made in the form of a
6 cashier's check payable to the "Department of Business Oversight" and mailed to the attention of
7 Senior Counsel Marlou de Luna at 320 West 4th Street, Suite 750, Los Angeles, California, 90013.

8 IV

9 Desist and Refrain Order

10 15. Financial Code section 23058, subdivision (a), authorizes the Commissioner to order
11 any person to desist and refrain from violating any provision of the CDDTL or any rule or order
12 thereunder.

13 16. Based on the foregoing facts, Sun Cash violated the CDDTL. The Commissioner has
14 notified Sun Cash of its obligation to provide the fingerprints for Randy Roche including emails to
15 Vorel on April 4, 2016, July 5, 2016, July 14, 2016, and September 30, 2016. Attempts to contact
16 Vorel by phone were unsuccessful and the outgoing message was unavailable to leave a message. To
17 date Sun Cash has failed to provide the required fingerprints for Randy Roche or provide evidence
18 that the required fingerprint documents and applicable processing fees have been submitted to the
19 Department.

20 17. Pursuant to Financial Code section 23058, Sun Cash is hereby ordered to desist and
21 refrain from violating Financial Code sections 23008 and 23010.

22 ///

23 ///

24 ///

1 This Order is necessary for the protection of consumers and consistent with the purposes,
2 policies, and provisions of the CDDTL. This Order shall remain in full force and effect until further
3 order of the Commissioner.

4 Dated: December 6, 2016

5 JAN LYNN OWEN
6 Commissioner of Business Oversight

7
8 By: _____
9 MARY ANN SMITH
10 Deputy Commissioner
11 Enforcement Division
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28